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7 UNITED STATES DISTRICT COURT  
8 WESTERN DISTRICT OF WASHINGTON  
9 AT SEATTLE

10 ASPEN INSURANCE U.K. LIMITED,

11 Plaintiff,

12 v.

13 EMERALD CITY ESCROW LLC, DAVID  
14 SOBOL, ALLA SOBOL aka ALLA  
15 PYATETSKAY, JACOB A. KORN and  
16 ANDREA KORN, husband and wife,  
17 VLADISLAV BAYDOVSKIY AND  
DONATA BAYDOVSKIY, aka DONNATA  
BRENNER aka DONNA BRENNER aka  
NETA BRENNER, husband and wife, and  
ING BANK fsb,

18 Defendants.

C09-820Z

MINUTE ORDER

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20 The following Minute Order is made by direction of the Court, the Honorable Thomas  
21 S. Zilly, United States District Judge:

22 (1) The Court GRANTS Plaintiff Aspen Insurance U.K. Limited's Motion for  
23 Summary Judgment, docket no. 62. The Court will issue an Order explaining its reasoning as  
soon as possible.

24 (2) The Court GRANTS Defendant ING Bank, fsb's Evidentiary Objections to  
25 Affidavit of John Silk, docket no. 74. The Court FINDS that Paragraph 20 of John Silk's  
Declaration is a conclusion of law.

26 (3) The Court DENIES WITHOUT PREJUDICE Defendant ING Bank, fsb's  
Motion for Leave to File Supplemental Counterclaim, docket no. 78. The Court FINDS that

1 ING Bank, fsb stands in the shoes of David and Alla Sobol ("the Sobols") by way of the  
2 Settlement Agreement. See Hicks Decl., docket no. 79, Ex. 1 (Settlement Agreement,  
3 Assignment of Rights). The Court further FINDS that because the Sobols are in default in  
the present lawsuit, ING Bank, fsb cannot bring the Sobols' claims at this time. See Blazek  
v. Capital Recovery Assocs., Inc., 222 F.R.D. 360 (E.D. Wis. 2004).

4 (4) The Court GRANTS Plaintiff Aspen Insurance U.K. Limited's Motion to  
5 Strike Section C of Defendant ING Bank, fsb's Reply Brief in Support of Its Motion for  
6 Leave, docket no. 87. Federal Rule of Civil Procedure 7(b)(1) states that "[a] court order  
7 must be made by motion." The Court FINDS that Section C of ING Bank, fsb's Reply Brief  
8 makes an additional motion to set aside the default against the Sobols in violation of Federal  
Rule of Civil Procedure 7(b)(1).

9 (5) The Clerk is directed to send a copy of this Minute Order to all counsel of  
10 record.

11 Filed and entered this 4th day of February, 2010.

12 BRUCE RIFKIN, Clerk

13 By s/ Claudia Hawney  
14 Claudia Hawney  
15 Deputy Clerk  
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